



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

MATTER OF T-M-, INC.

DATE: SEPT. 23, 2016

APPEAL OF NEBRASKA SERVICE CENTER DECISION

PETITION: FORM I-140, IMMIGRANT PETITION FOR ALIEN WORKER

The Petitioner, a manufacturer of industrial cleaning equipment, seeks to permanently employ the Beneficiary as a marketing director. It requests classification of the Beneficiary as a member of the professions holding an advanced degree under the second preference immigrant category. *See* Immigration and Nationality Act (the Act) section 203(b)(2)(A), 8 U.S.C. § 1153(b)(2)(A). This classification allows a U.S. employer to sponsor a professional with an advanced degree for lawful permanent resident status.

After initially approving the petition on August 16, 2012, the Director, Nebraska Service Center, revoked the petition's approval on August 8, 2013. The Director also denied the Petitioner's following motions to reopen and reconsider.

The Director concluded that the record at the time of the petition's approval did not establish a *bona fide* job offer. Finding that the Petitioner willfully misrepresented the availability of the job opportunity to U.S. workers, the Director also invalidated the accompanying ETA Form 9089, Application for Permanent Employment Certification (labor certification).

The matter is now before us on appeal. Upon *de novo* review, we will sustain the appeal and reinstate the labor certification.

The appellate record, including the Petitioner's response to our notice of intent to dismiss of June 8, 2016, establishes the Petitioner's intention to employ the Beneficiary in the offered position. The record also indicates that the Petitioner did not willfully misrepresent the availability of the offered position to U.S. workers on the accompanying labor certification.

Because the record establishes the *bona fides* of both the job offer and the job opportunity at the time of the petition's approval, and the record otherwise establishes eligibility for the requested benefit, we will sustain the appeal and reinstate the accompanying labor certification.

ORDER: The appeal is sustained.

(b)(6)

Matter of T-M-, Inc.

FURTHER ORDER: The ETA Form 9089, case number [REDACTED] is reinstated.

Cite as *Matter of T-M-, Inc.*, ID# 124593 (AAO Sept. 23, 2016)